



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee solicits comment on the following proposals by April 1, 2016. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes amendments to the kidnapping instruction, M Crim JI 19.1, to comport with amendments to MCL 750.349 that added the intent to engage a minor in child sexually abusive activity to the statute. Deletions are in strikethrough; added language is underlined.

[AMENDED] M Crim JI 19.1 Kidnapping

(1) The defendant is charged with the crime of kidnapping. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly restrained another person. “Restrain” means to restrict a person’s movements or to confine the person so as to interfere with that person’s liberty without that person’s consent or without legal authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.

(3) Second, ~~by doing so~~ when the defendant did so, [he / she] ~~must have~~ intended to do one or more of the following:

[Select appropriate subparagraph[s] based on the claims and evidence.]

- (a) hold that person for ransom or reward.
- (b) use that person as a shield or hostage.
- (c) engage in criminal sexual penetration or criminal sexual contact with that person.
- (d) take that person outside of this state.
- (e) hold that person in involuntary servitude.
- (f) engage that person in child sexually abusive activity when that person was less than 18 years old. Child sexually abusive activity includes sexual

intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.¹

Use Note

~~Select the alternative aggravating circumstance(s) warranted by the claims and evidence.~~

¹ Child sexually abusive activity is defined in MCL 750.145c(1)(n) as a child engaging in a “listed sexual act.” A listed sexual act is defined in MCL 750.145c(1)(i) as “sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.” Those terms, in turn, are each defined in MCL 750.145c(1), and the court may provide definitions where appropriate.